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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,395

12/05/2005

Ralf Plaumann

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04/08/2008

DITTHAVONG MORI & STEINER, P.C.

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EXAMINER

KERVEROS, JAMES C

ART UNIT

PAPER NUMBER

2117

MAIL DATE

DELIVERY MODE

04/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,395	<b>Applicant(s)</b> PLAUMANN ET AL.	
	<b>Examiner</b> JAMES C. KERVEROS	<b>Art Unit</b> 2117	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is a non-Final Office Action in response to the present US Application filed 12/05/2005.

Claims 1-14 are presently under examination and pending.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file, for Application 103 25 288.6, filed 06/04/2003 to GERMANY.

The present US Application 10/559395, filed 12/05/2005 is a national stage entry of PCT/EP04/03251, international filing Date: 03/26/2004.

#### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because they fail to show descriptive legends associated with the functional blocks corresponding to the reference characters 26-29 of Fig. 3. Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing. They should contain as few words as possible.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet

submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9, the phrase "variable manner" renders the claim indefinite because it is unclear whether the limitations associated with the number of transmission blocks following the phrase are part of the claimed invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the

applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Lucidarme (US Patent No. 7,197,050), filed March 12, 2002.

Regarding independent Claims 1, 9, Lucidarme discloses a method and apparatus for transmitting data blocks in acknowledged mode on a channel featuring a radio link with a mobile station, comprising:

A transmitter located in a base station subsystem (BSS) configured to transmit transmission blocks from a packet control unit (PCU) 22, through an interface Agprs, Figs. 1-3.

A receiver located in a base station subsystem (BSS) configured to receive first and second markings (ACK/ NACK) acknowledgement from the mobile station (MS) 10 device under test through the radio interface (Um).

An evaluation device (fade detection module 57) of the RLC/MAC entity examines the PDAN messages which are deduced therefrom by the module 55 in order to detect certain fades of the radio channel on the basis of the negatively-acknowledged blocks (NACK) from the mobile station (MS) 10, thus determining the rate of error of affected blocks. The detection by the module 57 of a fade spanning M EGPRS blocks up to the end of the polling period then results from the observation of M consecutive blocks in the NACK state in V (B).

A selection device (transmission controller 53) for controlling the transmission of a block of a TBF which has been selected by the transmission-scheduling process, in accordance with the RLC protocol. The controller first of all examines the table V (B) in order to determine whether it designates one or more blocks in the NACK state (test 60). If so, the block in the NACK state having the smallest sequence number BSN is selected at stage 61 in order to be repeated, and this block is then passed to the ACK\_PENDING state in table V(B) at stage 62,m Figs. 3 and 4.

Regarding Claims 2-8, 10-14, Lucidarme discloses one or more transmission blocks of a plurality of transmission channels respectively are transmitted to the mobile station (MS) 10 as shown in Figs. 5, 7 and 9, illustrating examples of transmission of blocks of a sequence by the transmission unit (BSS).

In the example of FIGS. 7 and 8, the controller 53 delays the repetition of the blocks in the NACK state until expiration of the duration D from the detected start of fade. If a block is transmitted before this expiration (the block BSN=71 in the example of FIG. 7), the controller 53 keeps it in the NACK state so that it can be retransmitted without waiting for reception and processing of the next PDAN message. Alternatively, the controller 53 does not keep this block 71 in the NACK state after its first transmission, but it chooses, for this first transmission, a coding scheme which is more robust to errors than that applied to the other blocks of the TBF, to anticipate difficult propagation conditions owing to the speed information.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES C. KERVEROS whose telephone number is (571) 272-3824. The examiner can normally be reached on 9:00 AM TO 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques H. Louis-Jacques can be reached on (571) 272-4150. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES C KERVEROS/  
Primary Examiner, Art Unit 2117

Date: 7 April 2008  
Office Action: Non-Final Rejection

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